

REMARKS

This Application has been carefully reviewed in light of the Office Action dated October 22, 2008 (the “Office Action”). Applicants previously canceled Claims 2-3, 5-7, and 17-19 without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

Claims 1, 4, 8-16, 20, 22 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,192,512 issued to Chess (“*Chess*”) in view of U.S. Patent No. 5,851,057 issued to Nachenberg (“*Nachenberg*”). Applicants respectfully traverse this rejection.

Claim 1 recites:

A method of detecting viral code in subject files, comprising:
creating an artificial memory region spanning one or more components of the operating system, wherein the artificial memory region is associated with an export table of a dynamically-linked library;
emulating execution of at least a portion of computer executable code in a subject file;
monitoring attempts by the emulated computer executable code to access the artificial memory region;
in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region; and
determining based on the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral.

The proposed *Chess-Nachenberg* combination fails to disclose, teach, or suggest every element of Claim 1 for at least several reasons. First, the proposed *Chess-Nachenberg* combination fails to disclose “creating an artificial memory region spanning one or more components of the operating system, wherein the artificial memory region is associated with an export table of a dynamically-linked library.” Second, the proposed *Chess-Nachenberg* combination fails to disclose “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region.” Third, the proposed *Chess-Nachenberg* combination fails to disclose “determining based on

the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral.” As a result, the proposed *Chess-Nachenberg* combination fails to disclose, teach, or suggest every element of Claim 1, as discussed further below.

i. “creating an artificial memory region spanning one or more components of the operating system, wherein the artificial memory region is associated with an export table of a dynamically-linked library”

The proposed *Chess-Nachenberg* combination fails to disclose “creating an artificial memory region spanning one or more components of the operating system, wherein the artificial memory region is associated with an export table of a dynamically-linked library” as recited by Claim 1. The Office Action concedes that *Chess* “fails to explicitly disclose the artificial memory region is associated with an export table of a dynamically-linked library.” Office Action, p. 3. Moreover, the Office Action fails to address this element entirely with respect to *Nachenberg*. The Office Action fails to cite to any portion of *Nachenberg* that discloses “the artificial memory region is associated with an export table of a dynamically-linked library.” As a result, the proposed *Chess-Nachenberg* combination fails to disclose “creating an artificial memory region spanning one or more components of the operating system, wherein the artificial memory region is associated with an export table of a dynamically-linked library” (emphasis added) as recited by Claim 1.

ii. “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region”

The proposed *Chess-Nachenberg* combination also fails to disclose “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region” as recited by Claim 1. In rejecting Claim 1, the Office Action fails to address the language of this element entirely. Instead, the Office Action improperly paraphrases the wording of this element in describing the alleged teachings of both *Chess* and *Nachenberg*. Applicants note however that “[a]ll words in a claim must be

considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Thus, it is improper to paraphrase elements or omit claim terms for purposes of comparing the language of a claim to the teachings of cited art.

With respect to *Chess* the Office Action asserts that “*Chess* discloses . . . in response to detecting an attempt to access the artificial memory region, determining a source program that is associated with the attempt to access the artificial memory region.” Office Action, pp. 2-3, emphasis added. While Applicants do not necessarily agree with the Office Action’s reading of *Chess*, Applicants note that this description erroneously paraphrases the language of Claim 1. In particular, Claim 1 recites “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region” (emphasis added).

Additionally, the Office Action simply asserts that *Nachenberg* teaches “monitoring these entry points . . . to determine whether a virus is present.” Office Action, p. 4, emphasis added. While Applicants also do not necessarily agree with the Office Action’s reading of *Nachenberg*, Applicants note that this description also erroneously paraphrases the language of Claim 1. Again, Claim 1 recites “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region” (emphasis added).

Thus, the Office Action fails to address the language of Claim 1 itself and provides no citation to any reference allegedly teaching “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region.” Moreover, the proposed *Chess-Nachenberg* combination fails to disclose “in response to detecting an attempt to access the artificial memory region, determining an export table entry in the export table of the dynamically-linked library that is associated with the attempt to access the artificial memory region” as recited by Claim 1.

iii. “determining based on the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral”

The proposed *Chess-Nachenberg* combination also fails to disclose “determining based on the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral” as recited by Claim 1. In addressing the this element, the Office Action again erroneously paraphrases the language of Claim 1. Specifically, the Office Action asserts simply that “*Chess* discloses . . . determining based on the attempt to access the artificial memory region that the emulated computer executable code is viral.” Office Action, pp. 3-4, emphasis added. While Applicants also do not necessarily agree with the Office Action’s interpretation of *Chess*, Applicants note that this description again erroneously paraphrases the language of Claim 1. In particular, Claim 1 recites “determining based on the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral” (emphasis added). Thus, the Office Action fails to cite to any portion of *Chess* or *Nachenberg* that allegedly discloses “determining based on the export table entry associated with the attempt to access the artificial memory region that the emulated computer executable code is viral” as recited by Claim 1, and the proposed *Chess-Nachenberg* combination fails to disclose this element.

As a result, the proposed *Chess-Nachenberg* combination fails to disclose every element of Claim 1. Claim 1 is thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claim 1 and its dependents.

Although of differing scope from Claim 1, Claims 10-12 and 14 include elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not disclosed by the proposed *Chess-Nachenberg* combination. Claims 10-12 and 14 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 10-12 and 14, and their respective dependents.

Claim 21 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Chess and Nachenberg as applied to Claim 1 and further in view of U.S. Patent No. 5,398,196 issued to Chambers (“*Chambers*”). Claim 21 depends from Claim 1, which has been shown above to be allowable. Claim 21 is thus allowable for at least this reason. Applicants respectfully request reconsideration and allowance of Claim 21.

Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any required fee or to credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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